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Attorneys for the United States of America

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

WENDELL LEROY WAITE,

Defendant.

Case No.: 2:13-cr-00354-JCM-PAL

**GOVERNMENT'S UNOPPOSED
RULE 48 MOTION TO DISMISS THE
INDICTMENT AS TO DEFENDANT
WENDELL WAITE**

The United States of America, by and through STEVEN W. MYHRE, Acting United States Attorney, and PATRICK BURNS, Assistant United States Attorney, hereby respectfully submits this Government's Rule 48 Motion to Dismiss the Indictment as to Defendant Wendell Waite.

Memorandum of Points and Authorities

A. Legal Standard for Government's Voluntary Dismissal of an Indictment Prior to Trial

Rule 48(a) of the Federal Rules of Criminal Procedure, governing "Dismissal, (a) By the Government," provides that, "The government may, with leave of court, dismiss

1 an indictment, information, or complaint. The government may not dismiss the
2 prosecution during trial without the defendant's consent."

3 **B. Good Cause Supports Dismissing the Indictment as to Defendant**
4 **Wendell Waite**

5 Good cause exists for granting the Government leave to dismiss the Indictment as
6 to Defendant Wendell Waite. Defendant Waite was recently evaluated and determined
7 to lack the mental competency to participate in a trial due to a diagnosis of Alzheimer's
8 dementia and cerebrovascular disease. The Government does not intend to challenge
9 this finding, and does not expect Waite to regain competency due to the degenerative
10 nature of the condition rendering him incompetent to assist in his own defense during a
11 trial.

12 **Conclusion**

13 WHEREFORE, after consideration of the included facts, points, authorities,
14 exhibits, and arguments, the United States respectfully requests that this Court dismiss
15 the indictment as to Defendant Wendell Waite only.

16
17 DATED this 4th day of May, 2017.

18 Respectfully submitted,

19 STEVEN W. MYHRE
20 Acting United States Attorney

21 //s//

22 PATRICK BURNS
23 Assistant United States Attorney
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,
Plaintiff,

vs.

WENDELL LEROY WAITE,

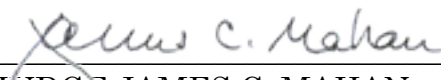
Defendant.

Case No.: 2:13-cr-00354-JCM-PAL

**ORDER DISMISSING THE
INDICTMENT AS TO DEFENDANT
WENDELL WAITE**

Under Federal Rules of Criminal Procedure Rule 48(a), and by leave of Court endorsed hereon, the Acting United States Attorney for the District of Nevada hereby dismisses, as to Defendant Wendell Waite only, the Criminal Indictment filed on September 10, 2013. Leave of Court is granted for the filing of the foregoing dismissal and the case is dismissed as to Defendant Wendell Waite only.

DATED May 9, 2017.


JUDGE JAMES C. MAHAN
United States District Judge